



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

App. No. : 10/699,212 Confirmation No.: 2780
Applicant : David R. Hennings et al.
Filing Date : October 30, 2003
Title : Endovenous Closure of Varicose Veins with Mid Infrared Laser
Group Art Unit : 3739
Examiner : David M. Shay
Docket No. : 15487.4002
Customer No. : 34313

Mail Stop AMENDMENT
Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

INTERVIEW SUMMARY

Sir:


In response to the Office Action dated June 22, 2005, Applicants initially want to thank the Examiner for bringing the need for an Interview Summary to Applicants' attention. Applicants regret their oversight in this regard and supply such interview summary in the present document.

A telephone interview was had on June 16, 2005 between Examiner David Shay and Applicants' attorney, James W. Geriak. Applicants' primary reason for making contact with the Examiner was to determine why their amendment after final action filed on February 24, 2005 had not prompted an advisory action by the Examiner. Applicants were informed that their amendment after final in February, 2005 was not received by the Examiner until June, 2005. In order to preserve the pendency of this application, Applicants had filed a Notice of Appeal.

CERTIFICATE OF MAILING (37 CFR §1.8)

I hereby certify, pursuant to 37 CFR §1.8, that I have reasonable basis to expect that that this paper or fee (along with any referred to as being attached or enclosed) would be mailed or transmitted on or before the date indicated with the United States Postal Service with sufficient postage as first class mail on the date shown below in an envelope addressed to Mail Stop AMENDMENT, Commissioner for Patents, PO Box 1450, Alexandria, VA 22313-1450.

Dated: June 29, 2005


Lynne Fulmer

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A discussion regarding the merits of the application was also had in which the Goldman and Dew patents upon which rejections were based were discussed. Applicants' attorney presented reasons why it would not be obvious to combine these two references, primarily on the ground that there was no suggestion in either reference for such combination. The Examiner stated that he did not agree and that he intended to adhere to his rejections based on this combination of references.

Applicants' attorney then advised the Examiner that he believed that there was objective evidence of unobviousness by reason of the fact that the prior art and contemporary workers in the field of laser treatment of varicose veins had chosen to use laser wavelengths which would be primarily absorbed by hemoglobin and had not used laser energy which would be primarily absorbed by the water in the collagen in the wall of the vein, a choice of wavelengths which Applicants believe to be a substantial element of their invention. Applicants' attorney indicated that he would collect evidence of such wavelength usage by other workers in this field and suggested that an RCE be filed so that the Examiner could consider such evidence. An RCE has now been filed and the evidence which was discussed has now been presented to the Examiner. The Examiner stated that he would, of course, consider any evidence that was submitted. No agreement on allowability was reached during the interview.

Applicants' attorney agrees with the interview summary prepared by the Examiner and believes that the summary submitted above is an accurate and complete description of the interview.

The Commissioner is authorized to charge any fees required by the filing of these papers, and to credit any overpayment to Orrick, Herrington & Sutcliffe's Deposit Account No. 15-0665.

Respectfully submitted,

ORRICK, HERRINGTON & SUTCLIFFE LLP

By: James W. Geriak
James W. Geriak, Reg. No. 20,233

Dated: June 29, 2005

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